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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,303	04/18/2000	Nick King	04860.P2439	1966

7590

09/08/2005

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EXAMINER

DETWILER, BRIAN J

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/551,303

Applicant(s)

KING ET AL.

Examiner

Brian J. Detwiler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-13,15,16,18-24 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13,15,16,18-24 and 26-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Reopening of Prosecution***

In view of new art that was recently discovered, the instant application has been withdrawn from issue. PROSECUTION IS HEREBY REOPENED and new grounds of rejection are set forth below.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8-13, 15, 16, 18-24, and 26-31 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,392,671 B1 (Glaser).

Referring to claim 1, Glaser discloses in column 5: lines 27-67 a digital processing system that retrieves a data value representing an appearance of an enclosure of said digital processing system. It is noted that the examiner interprets a digital processing system to include the processing unit, the display, and the peripherals connected to the processing unit.

Furthermore, “an appearance of an enclosure of said digital processing system”, is interpreted in view of Glaser as an appearance of an enclosure of a mouse or other peripheral that is a part of the digital processing system. Glaser further discloses in column 5: lines 63-67 that in one embodiment, the color of the computer peripheral is coordinated with a desktop theme of the

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digital processing system. In such an embodiment, the color of the enclosure of the computer peripheral must be represented by the data value, and the appearance of the display of the digital processing system is thus determined according to the appearance of the enclosure of the peripheral.

Referring to claim 2, Glaser discloses in column 5: lines 27-30 that the data value is stored in a memory which is coupled to the digital processing system.

Referring to claim 3, Glaser discloses in column 5: lines 27-67 a digital processing system that retrieves a data value representing an appearance of an enclosure of said digital processing system. It is noted that the examiner interprets a digital processing system to include the processing unit, the display, and the peripherals connected to the processing unit.

Furthermore, "an appearance of an enclosure of said digital processing system", is interpreted in view of Glaser as an appearance of an enclosure of a mouse or other peripheral that is a part of the digital processing system. Glaser further discloses in column 5: lines 63-67 that in one embodiment, the color of the computer peripheral is coordinated with a desktop theme of the digital processing system. In such an embodiment, the color of the enclosure of the computer peripheral must be represented by the data value, and the appearance of the display of the digital processing system is thus determined according to the appearance of the enclosure of the peripheral. Glaser still further discloses in column 5: lines 27-30 that the data value is stored in a non-volatile memory which is coupled to the digital processing system. Glaser explains in column 5: lines 38-43 that the invention is operable when a computer system is turned on for the first time. In such an instance, the value must inherently be stored by a manufacturer of the digital processing system.

Referring to claim 4, Glaser discloses in column 7: lines 43-59 that user-defined display preferences are stored by the digital processing system. Glaser further discloses in column 3: lines 5-13 that conflicts among desktop themes are resolved by the digital processing system. Glaser's system, accordingly, must inherently determine if there are any user-defined display preferences stored in the digital processing system.

Referring to claim 5, Glaser discloses in column 7: lines 43-59 that users can establish a display preference for disabling automatic theme changing. When automatic theme changing is disabled, the system will determine that user-defined display preferences are stored prior to retrieving the data value.

Referring to claim 6, Glaser explains in column 5: lines 38-43 that the invention is operable when a computer system is turned on for the first time. In such a case, no user-defined display preferences will have been stored and the data value will be retrieved as explained above.

Referring to claim 8, Glaser discloses in claim 12 that determining the appearance of the display comprises setting an appearance of: background color, cursor shape, wallpaper design, icon shape, sounds, button shape, and control bar color.

Referring to claims 9, 10, 16, 19, 21, and 27-31, Glaser sufficiently discloses the limitations of the instant claims as discussed above with reference to claims 1-6 and 8.

Referring to claim 11, Glaser discloses in column 5: lines 27-30 that the data value is stored in a non-volatile memory which is coupled to the digital processing system.

Referring to claims 12 and 22, Glaser discloses in column 7: lines 43-59 that user-defined display preferences are stored by the digital processing system. Glaser further discloses in column 3: lines 5-13 that conflicts among desktop themes are resolved by the digital processing

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system. Glaser's system, accordingly, must inherently determine if there are any user-defined display preferences stored in the digital processing system.

Referring to claim 13, Glaser discloses in column 7: lines 43-59 that users can establish a display preference for disabling automatic theme changing. The processor will thus set the appearance of the display based on this preference.

Referring to claims 15, 18, and 26, Glaser discloses in claim 12 that determining the appearance of the display comprises setting an appearance of: background color, cursor shape, wallpaper design, icon shape, sounds, button shape, and control bar color.

Referring to claim 20, Glaser discloses in column 5: lines 27-30 that the data value is stored in a memory which is coupled to the digital processing system.

Referring to claim 23, Glaser discloses in column 7: lines 43-59 that users can establish a display preference for disabling automatic theme changing. When automatic theme changing is disabled, the system will determine that user-defined display preferences are stored prior to retrieving the data value.

Referring to claim 24, Glaser explains in column 5: lines 38-43 that the invention is operable when a computer system is turned on for the first time. In such a case, no user-defined display preferences will have been stored and the data value will be retrieved as explained above.

### ***Conclusion***

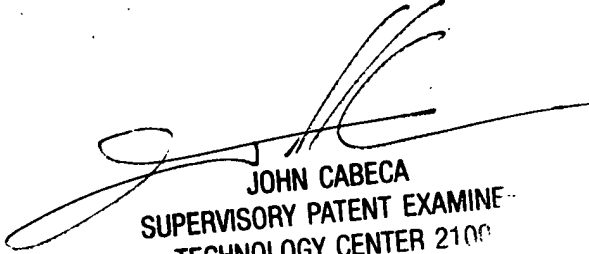
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Detwiler whose telephone number is 571-272-4049. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca can be reached on 571-272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bjd



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